

By a woman, אשה דלא קני ליה גופה לא כל שכן – where he does not acquire her person, is it not certainly so

OVERVIEW

The גמרא is certain that if a man says to his wife you are a בת חורין (a free woman), she is not divorced. The question is if he said to her את לעצמך (you belong to yourself), whether she is מגורשת or not. רבינא resolved this query from a ברייתא which states that if a man says to his slave הרי אתה לעצמך, he is freed. Now (reasons רבינא) if this statement is effective even by a slave whose גוף is קנוי to the owner, then it should certainly be effective by a אשה, whose גוף is not קנוי to her husband. ק"ו תוספות qualifies this.

אף על גב דגבי הרי את בת חורין לא מהני מקל וחומר¹ –

Even though that concerning a case where the husband says to his wife 'you are a free woman' we do not derive from this ק"ו that it is an **effective** גירושין. Why should הרי את לעצמך be different than בת חורין?!

replies that הרי את בת חורין is different - תוספות

– היינו משום דלא שייך חירות באשה –

That is because the concept of being freed is not applicable to a woman who is already free -

ולא עביד קל וחומר אלא מלשונות דשייכי הכא והכא²:

And the גמרא only makes a ק"ו from an expression which is applicable (both) here by עבד and also by אשה.

SUMMARY

A ק"ו can verify the intent of a phrase; it cannot create a fictitious meaning.

THINKING IT OVER

What does תוספות assume in the question; as opposed to the answer?

¹ We should (seemingly) make the same ק"ו; if an עבד whose גוף is קנוי לאדון becomes free though הרי אתה בן חורין, then a woman whose גוף is not קנוי לבעל should certainly be freed from her connection to him. The fact that we do not make such a ק"ו, proves that there is a flaw in this ק"ו. This same flaw should prevent us from deriving את לעצמך through a ק"ו from עבד.

² עבד הרי את בת חורין means you are freed from slavery (which is why it is effective by an עבד). A woman however, is not a slave, so these words are meaningless (a ק"ו cannot change its meaning). Concerning הרי את לעצמך, that phrase can mean either you are not obligated to work for me, or you are not obligated to me at all and are free to marry whomever you choose. We derive from the ק"ו of עבד, that את לעצמך means that you are completely free to be on your own.